



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

235-2

**CRWP-6077-2025 (O&M)**  
**Date of decision: 30.07.2025**

Barkha Bansal

....Petitioner

Versus

State of U.T. Chandigarh and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Vinod Ghai, Senior Advocate  
with Mr. Gurbir S. Dhillon, Advocate  
Mr. Arnav Ghai, Advocate  
and Mr. Kashish Sahni, Advocate for the petitioner.

Mr. Manish Bansal, Public Prosecutor  
with Mr. Viren Sibal, Addl. Public Prosecutor, U.T.,  
Chandigarh.

Mr. Satya Pal Jain, Addl. Solicitor General of India  
with Mr. Rajesh Sethi, Advocate,  
Mr. Sourabh Goel, Advocate  
Ms. Samridhi Jain, Advocate,  
Ms. Geetika Sharma, Advocate  
Ms. Anju Bansal, Advocate  
and Mr. Deify Jindal, Advocate  
for respondents No.2 and 3.

Ms. Sidhi Bansal, Advocate,  
Ms. Ridhi Bansal, Advocate  
and Mr. Viney Kumar, Advocate for respondent – CBIC.

**HARPREET SINGH BRAR J. (Oral)**

1. The present petition is filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for directing respondent No.1 to recover the husband of the petitioner, namely, Bharat Lal Garg (hereinafter to be referred as



‘detenue’) from the illegal custody of respondents No.2 and 3 and to hand him over to the petitioner and his family members or in alternative, appoint a Warrant for this purpose.

2. Affidavit of Sanket Kale, Additional Director General, Directorate of Goods and Service Tax Intelligence, Chandigarh Zonal Unit, has been filed in the Court today, which is taken on record.

3. Learned counsel for respondents No.2 and 3 refers to the said affidavit and submits that the directions issued by the Hon’ble Supreme Court in ***Paramvir Singh Saini vs. Baljit Singh and others (2021) 1 SCC 184*** will be followed in letter and spirit.

4. I have heard learned counsel for the parties and perused the record of the case.

5. An explanation and an assurance has been provided by Sanket Kale, Additional Director General in his affidavit, the relevant part of which is reproduced below:

*“5. That with specific reference to the direction contained in the order dated 18.07.2025 regarding compliance of the judgment of the Hon'ble Supreme Court in Paramvir Singh Saini vs. Baljit Singh & Others, (2021) 1 SCC 184, it is respectfully submitted that that CCTV cameras have been installed at the Office space of DGGI within Central Revenue Building, Sector 17, Chandigarh. Such cameras were always functional and they continue to remain functional. The cameras were temporarily non-functional due to construction work being carried out at the premises. It is also submitted that the cameras were non-functional since 30th May 2025 as duly recorded in the register.*

*The office was not aware about the events that will unfold on 4th / 5th June 2025. On 2nd June 2025, a correspondence regarding repair of cameras is also on record.*



6. *This office has recorded several statements in the presence of CCTV cameras. However, on certain occasions in the past, the cameras became non-operational for limited periods due to unforeseen technical issues which has duly been recorded in the register maintained for the purpose and swift action was taken to make them functional.*

7. *It is pertinent to mention here that in order to avoid such situations in future, all the Senior Intelligence officers, who are entrusted with recording statements, have been instructed to ensure that CCTV cameras are functional before commencing the statement.*

8. *It has also been noted that in case of any construction activities which can interfere with the proper functioning of will be undertaken in such a way that tgey do not interfere with the smooth functioning of CCTV cameras and there is alternative arrangement in case the cameras working is to be effected by the construction work.*

9. *The power switch of the cameras has also been enclosed within a locked enclosure to prevent any accidental shutdown.*

10. *That pursuant to the order dated 02.07.2025, deponent had ensured timely compilation of the requisite original records including the arrest memo, grounds of arrest, medical examination report and other documents, and the same were with the officer of the deponent present in the court. The same was passed on to the counsel for presenting before the Hon'ble court. However, due to some confusion at the material time regarding production in sealed envelope or otherwise, the same could not be shown to the court on 18.7.2025.*

*The record was available with the counsel during the hearing on 18.7.2025 and the deponent was also present in court during the hearing on 18.7.2025.*

11. *The non-placement of these records on record of the Hon'ble Court is due to circumstances beyond the control of the deponent. The deponent has never withheld any record from the Hon'ble Court intentionally or otherwise. The deponent tenders unconditional apology for non-presentation of the record.*



12. *That considering the confusion qua production of record on 18.07.2025, the officer Sh. Gurdhyan Singh, Senior Intelligence Officer has been instructed to carry the original records to be produced before this Hon'ble court on 30th July 2025.*

13. *That in compliance with the directions of this Hon'ble Court issued vide order dated 02.07.2025, deponent has filed an affidavit before this Hon'ble Court on the previous date of hearing i.e. 18.07.2025.*

14. *That as regards arrest of Bharat Lal made in this case, it is pertinent to mention here that there was complete application of mind and the arrest was not done mechanically.*

15. *That as regard the allegation of causing obstruction to the warrant officer is concerned, it was stated in the earlier affidavit that the deponent was not present on the spot where the warrant officer was situated at the material time. Neither the warrant officer nor the petitioner has levelled any allegations against the deponent. There is no wilful or intentional disregard of any of the order/directions of the Hon'ble Court. The deponent may kindly be discharged from the contempt notice.*

*The deponent once again tenders unconditional apology, in case any of the officer of the department obstructed the warrant officer from discharging his official duty.*

16. *As regards the issues related to recording of statement overnight is concerned, the concerned SIO has stated his version in the affidavit filed in this regard and it is once again reiterated that the statement was recorded only after the consent of Bharat Lal and at no stage Bharat Lal had expressed that he does not want to record his statement at night. His statement has not been retracted.*

17. *In order to avoid any such situation in future, the instructions related to recording of statement during the office hours under CCTV surveillance have already been given.”*

5. This Court finds it appropriate to accept the explanation provided in the said affidavit. However, it is expected that such a



conduct will not be repeated and that the Directorate General, Goods & Service Tax Intelligence will fully cooperate with any Court appointed officers, should such a situation presents itself in the future.

6. Furthermore, a detailed order was passed by this Court on 18.07.2025 wherein relying upon the judgments rendered by the Hon'ble Supreme Court in ***Radhika Agarwal vs. Union of India and another, 2025 SCC Online SC 449***, a Division bench of the Bombay High Court in ***Mahesh Devchand Gala vs. Union Of India of India and others*** in ***Criminal Writ Petition No.938 of 2024*** decided on 24.09.2024 and a Division bench of the Telangana High Court in ***Agarwal Foundries Private Limited Rama Towers and others vs. Union of India and others, 2020 SCC OnLine TS 1446***, the arrest of the detainee- Bharat Lal Goyal was declared illegal. The relevant part of the said order is reproduced below:

*“17. In view of the discussion above, this Court does not find any justifiable reasons to condone keeping the detainee in the zonal office for over 30 hours. Curiously, a prima facie cognizable offence was yet to be made out against the detainee and in spite of that he was kept in the zonal office overnight and subjected to prolonged interrogation. It does not stand to reason that the detainee, a family man, would voluntarily subject himself to such treatment. Further, at this stage only data had been extracted from the laptop of the detainee for forensic analysis. In absence of a cognizable offence, it was rather premature of the DGGI officials to entertain the idea of arrest, let alone justify it. Such an observation on part of the DGGI officials itself suggests that the detainee was not free agent while he was remained in the zonal office overnight. Learned counsel for respondents No.2 and 3 have vociferously argued that the presence of the detainee was not tainted by any element of coercion. However, this argument pales into insignificance in the background of the*



*fact that the present writ petition had to be filed by the wife of the detainee to seek his release.*

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*20. The DGGI officials have also taken a specific stand that the proceedings under Section 70 of the CGST Act are judicial proceedings and the DGGI officials must not be equated with police officials, thereby arguing that summoning prospective accused persons and keeping them beyond the office hours, with their consent, is perfectly valid. It is further argued that such voluntary statements are admissible and the provisions of the Code of Criminal Procedure, 1973 (Cr.P.C.) would not be applicable. Be that as it may, the DGGI officials have failed to indicate any reasons necessitating the continuation of interrogation into the night. Therefore, reason dictates that since the detainee was held in informal custody for an indefinite period, he is entitled to the protections available under Articles 21 and 22 of the Constitution of India, as held in Agarwal Foundaries (supra). Further, the detainee is also entitled to be released in view of the directions issued in Mahesh Devchand Gala (supra) that led to issuance of Circular dated 27.03.2025.*

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*25. This Court has no hesitation to observe that the designated officer merely gave authorization on the ipse dixit of the Intelligence Officer who forwarded the proposal to arrest through E-office portal. The approach adopted is mechanical in nature and does not reflect application of mind. Moreover, as noted above, the record was not produced in Court and, the affidavits of the Intelligence Officer and Additional Director General, do not contain any information regarding the issuance of the communication and authorization under Section 69 of the CGST Act along with the DIN (Document Identification Number). The Central Board Of Indirect Taxes & Customs issued a Circular No.128/47/2019-GST dated 05.11.2019, mandating all GST related communications including orders, notices, summons, authorizations, communications, etc. to carry DIN (Document Identification Number). Further, it has also been clarified by the Board that the unavailability of electronically generated DIN on any of the specified communications, not covered by the exceptions mentioned in Para 3 of Circular No. 122/41/2019-GST dated 05.11.2019, shall be treated as*



*invalid and be deemed to have never been issued. The failure to follow the drill mandated by law while granting authorization to arrest certainly vitiates the arrest as it suffers from an incurable illegality.*

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*29. In view of the discussion above, it is apparent that while DGGI officials put the detenue under restraint at 05:46 PM on 05.06.2025, they did not show any urgency in supplying the grounds of arrest to him. As such, the subsequent process of arrest and remand stand vitiated. Moreover, the DGGI officials also failed to supply the detenue with the 'reasons to believe' that he has committed an offence under the CGST Act, necessitating his arrest. Such conduct is in clear violation of the ratio laid down by the Hon'ble Supreme Court in Radhika Agarwal (supra) and Arvind Kejriwal (supra), and would therefore render the arrest of the detenue illegal and non est in the eyes of law.*

*30. Lastly, there is nothing available on the record that would prompt this Court to disbelieve the report of the Warrant Officer.*

*31. In conclusion, the statement of any person summoned by the DGGI must be recorded during office hours in view of the judgment rendered by a Division Bench of the Bombay High Court in Mahesh Devchand Gala(supra). Further, the person so summoned is well within his rights to record his statement in the presence of his counsel. The counsel may be present in the field of vision of the summoned person but not his hearing range, in terms of the judgment of a Division Bench of the Telangana High Court in Agarwal Foundries(supra). Additionally, any person summoned to the DGGI may request his statement to be recorded under CCTV surveillance, in view of the judgment of the Hon'ble Supreme Court in Paramvir Singh Saini(supra)."*

6. In view of the discussion above, the present petition is allowed. The jail authorities are directed to release the petitioner forthwith, if not required in any other case.



7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)  
JUDGE

30.07.2025  
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| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |